

UNITED STATES DISTRICT COURT

for the
Eastern District of Wisconsin

In the Matter of the Search of:

records and information associated with the cellular telephone assigned call number 414-998-8400, ("the Account"), that are stored at premises controlled by T-Mobile USA, Inc. ("the Provider"), headquartered at 12920 Se 38th St., Bellevue, WA, 98006.

Case No. 19-925M(NJ)

APPLICATION FOR A SEARCH WARRANT

I, a federal law enforcement officer or an attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following person or property:

See Attachment A

over which the Court has jurisdiction pursuant to Title 18, United States Code, Sections 2703 and 2711, there is now concealed:

See Attachment B

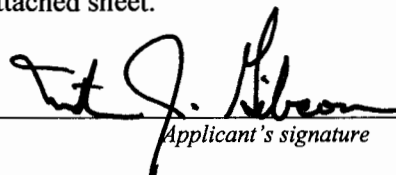
The basis for the search under Fed. R. Crim P. 41(c) is:

- ☒ evidence of a crime;
- ☐ contraband, fruits of crime, or other items illegally possessed;
- ☐ property designed for use, intended for use, or used in committing a crime;
- ☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to violations of: Title 21, United States Code, Sections 841(a)(1), 843(b) and 846, and Title 18, United States Code, Sections 924(c), 1951, 1956, 1957, 2113, 2119

The application is based on these facts: See attached affidavit.

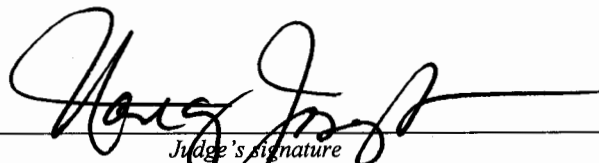
☐ Delayed notice of _____ days (give exact ending date if more than 30 days: _____) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet.


Applicant's signature

FBI Task Force Officer Matthew Gibson
Printed Name and Title

Sworn to before me and signed in my presence:

Date: October 8, 2019


Judge's signature

AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT

I, Matthew Gibson, being first duly sworn on oath, on information and belief state:

I. INTRODUCTION, BACKGROUND, TRAINING, AND EXPERIENCE:

1. I make this affidavit in support of an application for a search warrant for information associated with a certain cellular telephone assigned call number 414-998-8400 ("the SUBJECT PHONE") that is stored at premises controlled by T-Mobile USA, Inc., a wireless telephone service provider headquartered at 12920 Se 38th St., Bellevue, WA, 98006. The information to be searched is described in the following paragraphs and in Attachment A. This affidavit is made in support of an application for a search warrant under 18 U.S.C. § 2703(c)(1)(A) to require T-Mobile to disclose to the government copies of the information further described in Section I of Attachment B. Upon receipt of the information described in Section I of Attachment B, government-authorized persons will review the information to locate items described in Section II of Attachment B.

2. I have over 28 years of experience as a law enforcement officer and am currently assigned to the Milwaukee FBI Violent Crime Task Force as a Deputized Federal Task Force Officer. I was a Special Agent with the Federal Bureau of Investigation for over 23 years and have been an Investigator with the Milwaukee County District Attorney's Office since 2015. I have participated in numerous complex narcotics, money laundering, violent crime, armed bank robbery, and armed commercial robbery investigations in violation of Title 21, United States Code, Sections 841(a)(1), 843(b) and 846, and Title 18, United States Code, Sections 924(c), 1951, 1956, 1957, 2113, 2119, and other related offenses. I have employed a wide variety of investigative techniques in these and other investigations, including but not limited to, the use of informants, wiretaps, cooperating defendants, recorded communications, search warrants, surveillance,

interrogations, public records, DNA collection, and traffic stops. I have also received formal training regarding the same. As a Federal Task Force Officer, I am authorized to investigate violations of laws of the United States and to execute warrants issued under the authority of the United States.

3. Based on the facts set forth in this affidavit, there is probable cause that Brandon I. Smith (DOB XX/XX/1994) and Ladonis Thompson (DOB XX/XX/1994) conspired to commit and committed the attempted armed robbery of the El Paso Store, 1559 South 3rd Street, Milwaukee, WI, and the armed robbery of the Speedway, 9091 North 76th Street, Milwaukee, WI, on or about September 6, 2019, in violation of Title 18, United States Code, Sections 1951(a) (Hobbs Act robbery) and 924(c) (use of a firearm during a crime of violence). Additionally, there is probable cause that on or about September 6, 2019, and September 18, 2019, Brandon I. Smith possessed a firearm after having been convicted of a felony, in violation of Title 18, United States Code, Section 922(g) (felon in possession of a firearm). There is also probable cause to search the information described in Attachment A for evidence of these crimes as further described in Attachment B.

4. This affidavit is based upon my training and experience, my personal knowledge and information reported to me by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. This affidavit is also based upon police reports, surveillance videos, physical surveillance, and witness statements that I consider to be reliable as set forth herein.

5. Because this affidavit is submitted for the limited purpose of obtaining a search warrant, I have not included each and every fact known to me concerning this investigation.

II. PROBABLE CAUSE

6. On September 6, 2019, at approximately 9:36 a.m., an armed and masked subject entered the El Paso Foods store located at 1559 South 3rd Street, in Milwaukee, Wisconsin. When the employee saw the subject enter, the employee knew the store was about to be robbed and fled to the back of the store. The subject then reached over the counter and attempted to open the cash register. Unable to open the register, the subject fled. El Paso was a business involved in interstate commerce.

7. Based upon witnesses' descriptions and the El Paso Foods store's surveillance footage, the subject is described as a black male, wearing dark pants, yellow and black gloves, a dark-colored mask, gray and white shoes, and a white hooded "Champion" jacket with a black, orange, and pink colored design. The firearm, which was brandished during the robbery, was described as a black semi-automatic handgun with an extended magazine.

8. Law enforcement conducted a canvas in the area and several surveillance videos were recovered and reviewed. These videos captured a red Dodge Stratus in the area shortly before the robbery and in the alley where the subject fled. Surveillance video captured a second subject who exited the red Dodge Stratus and is believed to have been a lookout for the robbery.

9. On September 6, 2019, at approximately 10:24 a.m., an armed and masked subject entered the Speedway Gas Station, located at 9091 North 76th Street, in Milwaukee, Wisconsin, and demanded and obtained money from the cashier. After receiving the cash, the subject fled. Speedway was a business involved in interstate commerce and the robbery discussed herein affected interstate commerce.

10. Based upon the surveillance footage and witness descriptions, the subject was described as a black male, wearing a dark mask, zippered gray hooded sweatshirt, black pants,

yellow and black gloves, black pants, and black, white, and orange shoes. The subject brandished a black semi-automatic handgun with an extended magazine. The firearm appeared to be the same weapon brandished in the El Paso Food store robbery.

11. Law enforcement conducted a canvas in the area and recovered footage from several nearby surveillance systems. These videos captured the subject exit a passenger seat of a red Dodge Stratus bearing Temporary Wisconsin License plate S3703G prior to the robbery. The vehicle appeared to be the same vehicle identified in the footage related to the El Paso Food store robbery.

12. A query of the temporary plate S3703G revealed Milwaukee Police report indicating that Ladonis M. Thompson, residing at 2728 North 26th Street, in Milwaukee, phone 414-732-0510, had reported his red 2006 Dodge Stratus bearing temporary plate S3703G stolen at approximately 1:15 p.m. on September 6, 2019, several hours after the robberies. On September 10, 2019, law enforcement officers recovered the red Stratus at 2728 North 26th Street, Milwaukee, Thompson's residence. Thompson was on Wisconsin State Probation for a burglary conviction.

13. On September 11, 2019, investigators interviewed Thompson's Probation Officer. She stated that Thompson had reported to her office at 11:33 a.m. on September 6, 2019. The appointment was scheduled for 11:00 a.m. but Thompson did not check into the office until approximately 11:33 am. She stated Thompson's phone number was 414-732-0510. When Thompson met with his Probation Officer, Thompson advised her that his car had been stolen when his girlfriend left it running when she ran into someplace. When she returned, the car was gone.

14. On September 11, 2019, investigators interviewed Thompson and his girlfriend, S.C. at 2728 North 26th Street, Milwaukee, WI. They reported that the Stratus was stolen from the

rear of 2728 North 26th Street when the vehicle was unlocked and the keys were in it. Thompson stated his cousin called him around 4:00 or 5:00 p.m. on September 6th and told him that the Dodge Stratus was parked unoccupied a few blocks away. Thompson stated he contacted the Milwaukee Police Department who advised him to recover the vehicle himself, which he did.

15. Tower and toll records were obtained through legal process for Thompson's phone number, 414-732-0510. A plot of the various tower locations indicated that Thompson's phone was in the vicinity of his residence on 26th Street prior to the robberies on September 6, 2019, in the vicinity of the El Paso Foods store around the time of the attempted robbery, in the vicinity of the Speedway gas station at approximately the time of the robbery, and at Thompson's Probation Office at approximately the time he reported to his Probation Officer. In early September 2019, Thompson's phone records show that he was in regular contact with telephone number 414-998-8400 which was subsequently identified as Smith's number.

16. Facebook records were queried on Ladonis Thompson's account. A review of these records identified the account "Za Outthe Way" which had a post on August 30, 2019, of a subject wearing white hooded "Champion" jacket with a black, orange, and pink colored design which matched the jacket worn in the El Paso attempted robbery. The account user for "Za Outthe Way" was subsequently identified as Brandon Smith.

17. On September 18, 2019, a Wisconsin State Search Warrant was executed for Facebook records on Ladonis Thompson's account and Brandon Smith's account, "Za Outthe Way." These records contained messages, videos, and photographs. A video posted to Smith's account on September 18, 2019, depicted Thompson driving a car and Smith as a passenger. It appears Smith is recording a video from his cell phone. During the video Smith brandished a black framed firearm with an extended magazine. This firearm appears to be the same Hi Point 45 ACP

subsequently recovered during a search warrant executed on Thompson's residence on September 25, 2019. On September 6, 2019, at 8:15 a.m., a Facebook message post stated that he was "Out here with my ni99a Ladonis Thompson living that hi9h life but yall knew that thou." In several Facebook messages, the account user of "Zay Outthe Way" indicated his phone number was 414-998-8400. Another Facebook video posted to Thompson's Facebook page captures Smith wearing shoes consistent with the shoes of the subject in the Speedway robbery.

18. On September 24, 2019, Thompson and two other subjects were arrested by the Franklin Police Department following a traffic stop. Thompson was the passenger and provided the address of 2728 North 26th Street, Milwaukee, WI and telephone number 414-732-0510. A handgun was recovered from the vehicle.

19. On September 25, 2019, law enforcement executed a search warrant at 2728 North 26th Street, Milwaukee, WI, to locate evidence of the aforementioned incidents. A handgun described as a Hi Point 45 ACP Serial Number 4394325 and a loaded extended magazine were seized. The handgun was manufactured outside the state of Wisconsin. S.C. identified the firearm as belonging to Thompson. S.C. had seen him with it before but did not know it was in the house. The firearm with the extended magazine appeared to be the same weapon captured in the surveillance videos of the El Paso Foods store and Speedway gas station robberies.

20. On October 1, 2019, S.C. was interviewed and stated that E.C. and her boyfriend, who S.C. knows as "Zay," were temporarily staying at S.C.'s residence on September 6, 2019. S.C. stated that "Zay" has a Facebook account name of something similar to "Zay Out the Way." S.C. stated that E.C. owns a tan Elantra and that Thompson drove the Elantra to his Probation Office visit on September 6, 2019. "Zay" also drove E.C.'s Elantra. S.C. stated that she made a FaceTime call to E.C. on September 30, 2019, and "Zay" answered the call and gave the phone to

E.C. From the FaceTime video S.C. could tell that "Zay" and E.C. were in E.C.'s residence at 3324A North 37th Street.

21. On October 2, 2019, investigators interviewed Brandon Smith's Wisconsin State Probation Officer (PO) Isaac Keller. PO Keller was just assigned Smith and had not met with him yet. PO Keller reviewed Smith's previous Probation Officer's case notes which indicated that Smith was released from Wisconsin State Prison on August 27, 2019, for a robbery conviction. When released from prison, Smith stayed at his mother's residence 8907 North Park Plaza, in Brown Deer. According to the Probation Office's records, Smith had a contact phone number of 414-988-8400. On September 16, 2019, Smith reported that he and his mother were not getting along and he was moving in with his girlfriend E.C. at 3324A North 37th Street, in Milwaukee and provided E.C.'s phone number as 414-501-9657. The Probation Officer did a home visit at 3324A North 37th Street on September 20, 2019. The notes indicated that Smith was at the residence during the visit. He advised the Probation Officer at that time that his number had been turned off but he could be reached at E.C.'s number until he obtained a new phone.

22. On October 3, 2019, law enforcement established surveillance at 3324A North 37th Street and observed Smith exit the residence, walk to the garage, enter the tan Elantra, and drive away from the area. Officers did not attempt to follow the Elantra when it departed.

23. On October 3, 2019, Smith's former Probation Officer was interviewed by law enforcement. Smith's former Probation Officer was shown the Facebook video which depicted a subject brandishing a black frame firearm with extended magazine. She positively identified Smith as the subject in the video with the firearm. She supervised Smith from his release on August 27, 2019, until the end of September 2019, and met with him three or more times.

24. On October 3, 2019, Smith was arrested when he went to his Probation Office several hours after a scheduled visit. Smith was in possession of a gray Coolpad cellular phone with a black and grey case, with IMEI 860667040418027, and is currently in the custody of the Milwaukee Police Department under Property Inventory # 19-033446, Item #1. Smith arrived at his Probation Office driving the tan Elantra detailed above. The tan Elantra was towed to the Milwaukee Police Department and searched pursuant to a federal search warrant. A black Samsung smartphone with a blue case was recovered from the Elantra and is currently in the custody of the Milwaukee Police Department under Property Inventory # 19-033551, Item #2.

25. On October 4, 2019, law enforcement officers executed a federal search warrant at 3324A North 37th Street. From the residence, officers recovered a white hooded Champion jacket that was consistent in all respects with the jacket worn by the suspect in the attempted robbery of El Paso Food Store. Officers also recovered a pair of black shoes with white soles that were consistent in all respects with the shoes worn by the suspect in the Speedway Gas Station robbery.

26. On October 4, 2019, officers interviewed E.C. E.C. told officers that the Champion jacket and the black shoes with white soles recovered from the home belonged to Smith. E.C. identified Smith as the individual brandishing the black firearm with the extended magazine in the video posted to the Facebook account of "Zay Outthe Way" on September 18, 2019. E.C. also told the officers that she had seen Ladonis Thompson in possession of the same black firearm with the extended magazine on her porch on North 37th Street, and believed that the gun was Thompson's. E.C. reported that the black Samsung phone with blue case recovered from the tan Elantra was Smith's phone and had assigned telephone number 414-998-8400.

27. On October 4, 2019, Smith was interviewed while in custody. Smith waived his Miranda rights and provided a statement. The interview was both audio and video recorded. Smith

admitted that in the video posted to his Facebook account on September 18, 2019, he was in possession of the black firearm with extended magazine recovered from Ladonis Thompson's house. Smith further identified himself in the August 30, 2019 Facebook post photograph wearing the white Champion jacket recovered in the search of the house on North 37th Street. Smith also admitted that he had been in Thompson's red Dodge Status on multiple occasions. However, Smith denied any involvement in the robberies and said that it must be someone else wearing the same jacket.

28. I submit that there is probable cause to believe that the records identified in Attachment B, which correspond to telephone number 414-998-8400, are likely to constitute evidence of the above described crimes. According to law enforcement databases, T-Mobile was the Provider for this telephone number during the time period at issue.

29. In my training and experience, I have learned that T-Mobile is a company that provides cellular telephone access to the general public. I also know that providers of cellular telephone service have technical capabilities that allow them to collect and generate information about the locations of the cellular telephones to which they provide service, including cell-site data, also known as "tower/face information" or "cell tower/sector records." Cell-site data identifies the "cell towers" (i.e., antenna towers covering specific geographic areas) that received a radio signal from the cellular telephone and, in some cases, the "sector" (i.e., faces of the towers) to which the telephone connected. These towers are often a half-mile or more apart, even in urban areas, and can be 10 or more miles apart in rural areas. Furthermore, the tower closest to a wireless device does not necessarily serve every call made to or from that device. Accordingly, cell-site data provides an approximate location of the cellular telephone but is typically less precise than

other types of location information, such as E-911 Phase II data or Global Positioning Device ("GPS") data.

30. Based on my training and experience, I know that T-Mobile can collect cell-site data about the SUBJECT PHONE. I also know that wireless providers such as T-Mobile typically collect and retain cell-site data pertaining to cellular phones to which they provide service in their normal course of business in order to use this information for various business-related purposes.

31. Based on my training and experience, I know that wireless providers such as T-Mobile typically collect and retain information about their subscribers in their normal course of business. This information can include basic personal information about the subscriber, such as name and address, and the method(s) of payment (such as credit card account number) provided by the subscriber to pay for wireless telephone service. I also know that wireless providers such as T-Mobile typically collect and retain information about their subscribers' use of the wireless service, such as records about calls or other communications sent or received by a particular phone and other transactional records, in their normal course of business. In my training and experience, this information may constitute evidence of the crimes under investigation because the information can be used to identify the SUBJECT PHONE's user or users.

AUTHORIZATION REQUEST

32. Based on the foregoing, I request that the Court issue the proposed search warrant, pursuant to 18 U.S.C. § 2703(c) and Federal Rule of Criminal Procedure 41.

33. I further request that the Court direct T-Mobile to disclose to the government any information described in Section I of Attachment B that is within its possession, custody, or control. Because the warrant will be served on T-Mobile, who will then compile the requested

records at a time convenient to it, reasonable cause exists to permit the execution of the requested warrant at any time in the day or night.

ATTACHMENT A

Property to Be Searched

This warrant applies to records and information associated with the cellular telephone assigned call number 414-998-8400, ("the Account"), that are stored at premises controlled by T-Mobile USA, Inc. ("the Provider"), headquartered at 12920 Se 38th St., Bellevue, WA, 98006.

ATTACHMENT B

Particular Things to be Seized

I. Information to be Disclosed by the Provider

To the extent that the information described in Attachment A is within the possession, custody, or control of the Provider, including any information that has been deleted but is still available to the Provider or that has been preserved pursuant to a request made under 18 U.S.C. § 2703(f), the Provider is required to disclose to the government the following information pertaining to the Account listed in Attachment A for the time period from September 1, 2019, through October 4, 2019:

- a. The following information about the customers or subscribers of the Account:
 - i. Names (including subscriber names, user names, and screen names);
 - ii. Addresses (including mailing addresses, residential addresses, business addresses, and e-mail addresses);
 - iii. Local and long distance telephone connection records;
 - iv. Records of session times and durations, and the temporarily assigned network addresses (such as Internet Protocol ("IP") addresses) associated with those sessions;
 - v. Length of service (including start date) and types of service utilized;
 - vi. Telephone or instrument numbers (including MAC addresses, Electronic Serial Numbers ("ESN"), Mobile Electronic Identity Numbers ("MEIN"), Mobile Equipment Identifier ("MEID"); Mobile Identification Number ("MIN"), Subscriber Identity Modules ("SIM"), Mobile Subscriber Integrated Services Digital Network Number ("MSISDN"); International Mobile Subscriber Identity Identifiers ("IMSI"), or International Mobile Equipment Identities ("IMEI");
 - vii. Other subscriber numbers or identities (including the registration Internet Protocol ("IP") address); and

- viii. Means and source of payment for such service (including any credit card or bank account number) and billing records.
- b. All records and other information (not including the contents of communications) relating to wire and electronic communications sent or received by the Account, including:
 - i. the date and time of the communication, the method of the communication, and the source and destination of the communication (such as the source and destination telephone numbers (call detail records), email addresses, and IP addresses); and
 - ii. information regarding the cell tower and antenna face (also known as “sectors”) through which the communications were sent and received.

II. Information to be Seized by the Government

All information described above in Section I that constitutes evidence of violations of 18 U.S.C. §§ 1951(a), 924(c), and 922(g), during the period from September 1, 2019, through October 4, 2019.